The Honorable Benjamin H. Settle

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA, Plaintiff, v. PAEPAEGA MATAUTIA, JR., Defendant.	NO. CR08-5601BHS GOVERNMENT'S SENTENCING MEMORANDUM

The United States of America, by and through Jenny A. Durkan, United States Attorney for the Western District of Washington, and Bruce F. Miyake and Jill Otake, Assistant United States Attorneys for said District, files this Sentencing Memorandum, which recommends a term of three years of probation. Sentencing is scheduled for Monday, May 3, 2010, at 11:00 a.m.

I. BACKGROUND.

A. The Offense Conduct.

Defendant Paepaega Matautia, Jr. worked as a Residential Rehabilitation Counselor (RRC) at the Special Commitment Center (SCC). RRCs function as guards at the facility. Defendant met Lawrence Williams, an SCC resident, his first day on the job. His interactions with Mr. Williams were initially nondescript. At times, however, Mr. Williams pried into Defendant's personal life, but Defendant warned him that they were not supposed to talk about such matters. Eventually Mr. Williams manipulated Defendant into feeling comfortable enough to tell Mr. Williams about his family. For

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example, Mr. Williams would ask Defendant about his son's football games, and Defendant told Mr. Williams about his son's successes. Defendant saw Mr. Williams every day he went to work.

Beginning in June 2007, Defendant received a lateral transfer to work at the SCC mail room. In the fall of 2007, Defendant's personal financial troubles began to overwhelm him. He was earning eleven dollars an hour but owed over $8,000 in late mortgage payments, and was on the verge of losing his home. During a moment of both vulnerability and stupidity, Defendant confided in Mr. Williams that he was having financial problems. Mr. Williams told Defendant that he could help him. Defendant considered the option for a several days, and then accepted Mr. Williams' help.

Mr. Williams initially told Defendant he would pay him to smuggle food into the SCC for him. Defendant did so, earning $200 each time. Defendant picked up packages for delivery to Mr. Williams from Barbara Boardman, a former SCC nurse and Mr. Williams' paramour. After the first few deliveries of food to Mr. Williams, Defendant noticed that the package he received from Ms. Boardman was different. Ms. Boardman informed Defendant that he was now delivering drugs and drug paraphernalia into the SCC for Mr. Williams. Defendant did so, and continued to receive $200 for each delivery. At one point, he was also allowed the use of Ms. Boardman's truck and Mr. Williams promised Defendant that he would receive another vehicle from her.

On July 28, 2008, at Mr. Williams' direction, Justine Stephens -- a woman Mr. Williams had manipulated into assisting him in his drug trafficking scheme -- purchased 4.7 grams of cocaine base. Mr. Williams told Ms. Stephens to drop the drugs off at a trailer park. She did so, leaving the crack cocaine in the glove compartment of a truck owned by Ms. Boardman.

Ms. Boardman was cooperating with the Federal Bureau of Investigation (FBI) at the time, and noted Defendant Stephens' license plate number. The FBI then conducted a "buy bust" operation, using sham drugs as a replacement for the crack. The FBI had

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Ms. Boardman deliver the fake crack to Defendant, who was then to deliver the crack to Mr. Williams at the SCC. Defendant was immediately arrested. Mr. Williams and Ms. Stephens were later arrested as well. Defendant was read and waived his *Miranda* rights. He immediately admitted to smuggling crack into the SCC for Mr. Williams on multiple occasions. At Mr. Williams' trial, Defendant testified that he did so eight times.

B. Procedural History.

A Grand Jury indicted Defendant Matautia, Mr. Williams, and Ms. Stephens, charging all three with Conspiracy to Distribute Cocaine Base, a violation of Title 21, United States Code, Sections 841(a)(1), 841(b)(1)(B), and 846. Dkt. No. 41. The Grand Jury also indicted Williams on a charge of Witness Tampering, in violation of Title 18 United States Code, Section 1512(b)(2)(A), 1512(b)(2)(B), and 1512(b)(3), for telephone calls he made to Ms. Stephens from the Pierce County Jail. Dkt. No. 41. Defendant Matautia pleaded guilty as charged on December 12, 2008. He faces a mandatory minimum sentence of five years. *See* 21 U.S.C. § 841(b)(1)(B). The government has previously filed a sealed motion made pursuant to United States Sentencing Guidelines Section 5K1.1 and Title 18, United States Code, Section 3553(e).

II. GUIDELINE CALCULATION.

The government and Defendant agreed in his Plea Agreement that the base offense level in the instant case is 24. The Plea Agreement allows the parties to argue for any other provisions of the United States Sentencing Guidelines. The following outlines the government's calculation of Defendant's advisory guideline range:

Base Offense Level:	24 (USSG § 2D1.1(c)(6))
Distribution of a Controlled Substance at a Detention Facility:	+2 (USSG § 2D1.1(b)(3))
Abuse of a Position of Trust:	+2 (USSG § 3B1.3)
Acceptance of Responsibility:	-3 (USSG § 3E1.1(a) and (b))
TOTAL OFFENSE LEVEL:	25

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Defendant has a Criminal History Category of I, rendering his advisory sentencing range sixty to seventy-one months.[1]

III. ARGUMENT.

After considering the factors outlined at Title 18, United States Code, Section 3553(a), and the extent of Defendant's cooperation, the government respectfully recommends a sentence of twelve months and one day, followed by three years of supervised release.

The reasons the government recommends a sentence under the mandatory minimum sentence of five years have been addressed in a prior pleading. Additionally, considering in particular the nature and circumstances of the offense, the history and characteristics of the defendant, and the need for deterrence, a sentence of twelve months and one day is appropriate.

A. The Nature and Circumstances of the Offense.

The proliferation of drugs within a confined facility creates unique dangers. By furthering the black market for drugs at the SCC, Defendant Matautia put at risk the lives of those, like himself, who were expected to maintain order within the facility. As a society, we expect the guards of confined facilities to behave professionally and avoid falling prey to the criminal element that resides in such places. Defendant Matautia admitted during Mr. Williams' trial that he had been taught in his training not to befriend inmates for fear of bribery. Despite his awareness of the risks in telling Mr. Williams personal information, Defendant did so and was thereafter coopted into Mr. Williams' dangerous conspiracy. Defendant's abuse of his position at the SCC allowed Mr. Williams greater access to drugs and assisted Mr. Williams in successfully distributing crack within the facility.

[1] The Guidelines state that the range is fifty-seven to seventy-one months, but because of the mandatory minimum sentence, the low-end of the range must be sixty months.

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B. Defendant' History and Characteristics.

Defendant's history and characteristics weigh in favor of a sentence of twelve months and a day, which is far less severe than the range he faces. Defendant has no criminal history, no history of arrests, very limited history of drug or alcohol usage, and a steady history of employment. The government is convinced that it was Defendant's financial vulnerability, rather than any moral depravity, made him an easy target for Mr. Williams.

C. Deterrence.

As became clear through the course of Mr. Williams' trial, the SCC faces challenges in ensuring its guards do not succumb to the same criminal activity Defendant Matautia did. A sentence of twelve months and a day sends the appropriate message to the SCC's guards that the federal government takes seriously their role and any abuse of trust exerted in the course of their duties.

IV. CONCLUSION

For the reasons set forth above, the government respectfully recommends a sentence of twelve months and one day.

DATED this 27th day of APRIL, 2010.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2010, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the attorney of record for the defendant.

s/Adam Keeling
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